

Amendments to the Drawings:

The attached one (1) replacement sheet of drawings includes changes to FIG. 2. FIG. 2 on the replacement sheet has been amended to correspond to FIG. 5 and shows the top table 18 being wider than the intermediate table 17. In addition, two of the storage aids 4 have been removed for clarity purposes. The attached one (1) replacement sheet depicting FIG. 2 replaces the sheet depicting FIG. 2 currently on file.

Attachment: One (1) replacement sheet of drawings

REMARKS/ARGUMENTS

The claims are 42-57 and 59-70.

Claim 58 has been canceled. Claims 42-57 and 59-70 have been amended to improve their form, to delete reference numerals or characters, or to better define the invention. Claims 48, 52, 53, 55, 60, 61, 62, 65, 66, 67, 68, 69, and 70 have been amended to depend on claims 47, 51, 51, 51, 59, 51, 51, 64, 65, 66, 67, 64, and 64, respectively, instead of depending directly on claim 42.

In addition, the terms "top band" and "bottom band" in claims 42 and 57 have been changed to -- top flange -- and -- bottom flange -- as better translations of the German terms "Obergurt" and "Untergurt." The term "band width" has also been changed to -- flange width -- in claim 57.

The specification has been amended to correct a clerical error. An amended FIG. 2 has been submitted.

Support may be found, *inter alia*, in the disclosure at pages 3, 10-13, and in FIG. 5. Reconsideration is expressly requested.

The drawings were objected to under 37 CFR 1.83(a) as failing to show the feature of claim "57" of the width of the top band being shorter than a width of the bottom band. Presumably the Examiner meant to refer to claim 58 because claim 58 recited the feature that the "band width of the top band is shorter than a band width of the bottom band." In response, claim 58 has been canceled, thereby obviating the objection of the Examiner to the drawings as failing to show this feature. It is also respectfully submitted that the feature of amended claim 57 that the "flange width of the top flange is bigger than a flange width of the bottom flange" is shown in the drawings in FIG. 5. FIG. 5 shows the width 64 of the top flange as bigger than the width 65 of the bottom flange. Accordingly, it is respectfully submitted that the Examiner's objection to the drawings has been overcome, and it is respectfully requested that this objection be withdrawn.

Claim 42 was objected to for the informalities of improperly using the word "form" and of reciting "froma". In amended claim 42, this recitation of "form" has been deleted and the recitation

of "forma" has been changed to -- form a --. Accordingly, it is respectfully submitted that the Examiner's objection to claim 42 has been overcome, and it is respectfully requested that the Examiner's objection to claim 42 be withdrawn.

Claims 42-70 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In response, each remaining claim has been amended to improve its form.

Specifically, claim 42 has been amended to introduce first, second, third, and fourth linear guide systems and "the guide systems" recited on multiple occasions in claim 42 have been amended to be "*the first and second linear guide systems*" or "*the third and fourth linear guide systems*".

Claim 47 has been amended to recite that the intermediate table is made of "*a polyester resin composite material*" so that this term does not need antecedent basis. Claim 48 has been amended to depend on claim 47 and to recite "*the polyester resin composite material*" so that claim 47 provides antecedent basis for this element recited in claim 48.

Claims 52, 53, 55, and 61 have each been amended to depend on claim 51. Claim 51 introduces the feature of "guide elements" which provides antecedent basis for the "guide elements" recited in each of claims 52, 53, 55, and 61. Claim 51 also introduces the feature of "groove-shaped recesses" which provides antecedent basis for the groove-shaped recesses recited in claim 55.

Claims 54, 55, and 56 have each been amended to recite "the strip-shaped guide projections" to clarify that these elements of claims 54, 55, and 56 refer to the strip-shaped guide projections introduced in independent claim 42 on which claims 54 and 56 directly depend and on which claim 55 indirectly depends.

Claim 42 has been amended to recite that its guide planes are "parallel first and second guide planes" and claim 56 has been amended to refer to these parallel first and second guide planes so that this reference in claim 56 to parallel first and second guide planes has proper antecedent basis.

Claim 56 has been amended to recite the "intermediate table" instead of the "middle table" and claim 42, on which claim 56

directly depends, provides antecedent basis for this recitation of claim 56 of intermediate table.

Claim 59 has been amended to refer to "a bottom face of the intermediate table" so that antecedent basis for this element is unnecessary.

Claim 42 has been amended to refer to a "third guide plane" which it is respectfully submitted provides antecedent basis for "the third guide plane" recited in amended claim 59.

Amended claim 59 introduces the feature of groove-shaped recesses and claim 60 has been amended to depend on amended claim 59 so that this recitation of amended claim 59 provides antecedent basis for "the groove-shaped recesses" recited in amended claim 60.

Amended claim 51 introduces "guide elements" and has been amended to recite "groove-shaped recesses". Claim 62 has been amended to depend on claim 51 so that claim 51 provides antecedent basis for the "the groove-shaped recesses" and "the guide elements" recited in amended claim 62.

Amended claim 64 introduces the elements of "*side walls*" and has been amended to refer to a "*a respective locking device*". Claims 65 and 66 have each been amended to depend on amended claim 64 and to recite "*each locking device*". Therefore, amended claim 64 provides antecedent basis for the "*locking device*" in each of amended claims 65 and 66 and the side wall recited in each of amended claims 65 and 66.

Claim 66 has been amended to depend on amended claim 65, claim 67 has been amended to depend on amended claim 66, and claim 68 has been amended to depend on amended claim 67. Amended claim 65 introduces "*a double lever element*" and amended claim 66 introduces "*a single lever element*", and these elements provide antecedent basis for "*the single lever element*" and "*the double lever element*" recited in amended claim 67 and "*the single lever element*" recited in amended claim 68. Amended claim 67 also introduces the element of "*an operating region*" which provides antecedent basis for "*the operating region*" recited in amended claim 68.

Claim 69 has been amended to recite "*a non-operating position*" so that antecedent basis for this element is

unnecessary. Amended claim 64 introduces the element of each "*locking device*". Claim 69 has also been amended to depend on amended claim 64 and to recite each "*locking device*", so that the recitation of amended claim 64 of each "*locking device*" provides antecedent basis for the locking device of amended claim 69.

Claim 70 has been amended to recite each "*locking device*" and to depend on amended claim 64 which recites each "*locking device*" so that amended claim 64 provides antecedent basis for these elements of amended claim 70. Claim 70 has also been amended to recite "~~the~~ *endless conveyors*" to remove "the" from in front of "endless conveyors" so that no antecedent basis is necessary for this element of amended claim 70.

Claim 70 has also been amended to delete the recitation of "the projection distance". It is also respectfully submitted that the "*hook height*" and the "*vertical distance*" of amended claim 70 are sufficiently described in the claim to comply with the requirements of 35 U.S.C. § 112, second paragraph.

The claims have additionally been amended to correspond to the claim amendments described above.

Accordingly, it is respectfully submitted that the claims as amended overcome the Examiner's rejection under 35 U.S.C. § 112, second paragraph, and it is respectfully requested that the Examiner's rejection of the claims on this basis be withdrawn.

Claims 42, 49-51, 54-56, 58-62, and 64-70 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Johnston et al.* U.S. Patent No. 3,556,329. Claims 43-48, 52-53, 57, and 63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Johnston et al.*

This rejection is respectfully traversed in view of the foregoing amendments and the following remarks.

As set forth in amended claim 42, Applicants' invention provides a load-bearing device for a shelf-stacking device, with a telescopic table displaceable in a plane parallel with a support surface for accommodating at least one storage aid. The load-bearing device includes a bottom table and an intermediate table including a substantially flat I-beam and a top table displaceable relative thereto and relative to one another in first, second, third and fourth linear guide systems disposed

symmetrically by reference to a mid-plane. The load-bearing device also includes a drive system between the bottom table and intermediate table.

As set forth in claim 42 as amended, the load-bearing device includes a transmission system for displacing the top table depending on the relative movement between the bottom table and the intermediate table. The first and second linear guide systems are between the intermediate table and the bottom table, and the third and fourth linear guide systems are between the intermediate table and the top table and are disposed in parallel first and second guide planes spaced apart from one another and extending parallel with a bearing surface of the top table. The load-bearing device includes at least one other guide system which forms a third guide plane oriented perpendicular to the parallel first and second guide planes and parallel with a displacement direction of the top table.

As set forth in claim 42 as amended, the transmission system includes a transmission mechanism and is disposed in a transmission plane extending at an angle with respect to a top face of the top table and parallel with the displacement direction. Strip-shaped guide projections form the parallel

first and second guide planes, extend across an entire length of the intermediate table, form a top flange incorporating the third and fourth linear guide systems between the intermediate table and the top table, and form a bottom flange incorporating the first and second linear guide systems between the intermediate table and the bottom table.

In this manner, Applicants' invention provides a load-bearing device adapted and secure for a high-speed transfer to storage and for the distribution of the goods in a warehouse.

It is respectfully submitted that *Johnston* fails to disclose or suggest a load-bearing device as recited in amended claim 42 including an intermediate table comprising a substantially flat I-beam.

With a load-bearing device having an intermediate table comprising a substantially flat I-beam as recited in amended claim 42, Applicants' load-bearing device raises the stability against bending and torsion forces, raises the width of guide projections on the intermediate table for a sure guiding of the top table, allows a bigger width of the top table, and lowers the construction height of the load-bearing means. It is

respectfully submitted that any article stacker unit according to *Johnston* will fail to achieve these benefits because *Johnston* teaches a different type of intermediate table than the intermediate table recited in Applicants' amended claim 42.

Specifically, *Johnston* discloses that its stacker section 39, which the Examiner has found to be an intermediate table according to Applicants' claim 42, has substantial interruptions along each of the top face of the stacker section and the bottom face of the stacker section. These interruptions run along the length of the stacker section as shown in FIG. 4 of *Johnston*.

Therefore, any article stacker unit according to *Johnston* will be able to provide less stability against bending and torsion forces than a load-bearing device according to Applicants' amended claim 42 can provide. Any article stacker unit according to *Johnston* will also therefore be able to support guide projections on an intermediate table that only have a width smaller than the width of guide projections able to be supported in Applicants' load-bearing device as recited in amended claim 42. Accordingly, a less-sure guiding of the top table will likely result according to *Johnston* than would result with a load-bearing device according to Applicants' amended claim 42.

Any article stacker unit according to *Johnston* also allows a width of the top table that is smaller than a width of the top table allowed by a load-bearing device according to Applicants' amended claim 42.

Accordingly, it is respectfully submitted that amended claim 42, together with amended claims 43-57 and 59-70 which depend thereon, are patentable over *Johnston*.

Applicants' amended claim 57 depends on amended claim 42 and further specifies that a flange width of the top flange is bigger than a flange width of the bottom flange.

The Examiner has acknowledged that *Johnston* fails to disclose this feature of amended claim 57, but the Examiner has taken the position that it would have been obvious to one of ordinary skill in the art to change the stacker section of the article stacker unit of *Johnston* to have this feature as an obvious matter of design choice. According to the Examiner, Applicants have failed to disclose that this feature provides an advantage, is used for a particular purpose, or solves a stated problem, which according to the Examiner indicates that this

feature of Applicants' amended claim 57 is an obvious matter of design choice in view of the design of *Johnston*.

It is respectfully submitted that the Examiner's position is unfounded, because as set forth in the first full paragraph of page 11 of Applicants' specification, a load-bearing device having this feature results in a space-saving disposition of the guide systems and a space-saving disposition of the telescopic table including a low construction height of the telescopic table. Therefore, a load-bearing device as recited in Applicants' amended claim 57 provides this specific advantage and reduces the problem of bulky load-support means.

Any article stacker unit according to *Johnston* will fail to achieve these benefits, because *Johnston* discloses that the width of the top portion of the stacker section 39 should be equal to the width of the lower portion of the stacker section 39. See FIG. 4 of *Johnston*.

Accordingly, Applicants' load-bearing device as recited in amended claim 57 provides specific advantages that any device according to *Johnston* does not provide, and it is respectfully

submitted that Applicants' amended claim 57 is patentable over *Johnston* for this additional reason:

Applicants' amended claim 63 depends on amended claim 42 and further specifies that an angle between the transmission plane and the top face of the top table is between 10° and 60°

The Examiner has acknowledged that *Johnston* fails to disclose this feature, but has taken the position that it would have been obvious to one of ordinary skill in the art to make a load-bearing device having this feature, because according to the Examiner the general condition of Applicant's amended claim 63 is disclosed by *Johnston* and it would require only routine skill to determine the optimum or workable range, as recited in Applicants' amended claim 63, starting from the general condition disclosed in *Johnston*. According to the Examiner, Applicants have disclosed no criticality of the limitations of claim 63.

It is respectfully submitted that the Examiner's position is unfounded, because *Johnston* fails to disclose even the general conditions of providing a transmission plane at angle to the top face of the top table so that the telescopic table does not need

a maximum height. *Johnston* discloses that this angle would be 90°. See sprocket wheel 91 and chain 84 shown in FIG. 6 of *Johnston*, cited by Examiner as a transmission means, and having a 90° angle with respect to the top face of top table 76. There is no disclosure in *Johnston* that this angle could be manipulated to reduce the height of the telescopic table to save space. Accordingly, it is respectfully submitted that *Johnston* does not disclose even the general condition behind Applicants' amended claim 63 and the Examiner's position with respect to claim 63 is therefore unfounded. It is respectfully submitted that Applicants' amended claim 63 is patentable over *Johnston* for this additional reason.

Applicants' amended claim 64 depends on amended claim 42 and further specifies that first and second locking mechanisms are disposed at opposite end regions of the top table on first and second side walls, respectively. Each locking mechanism has a respective locking device which can be displaced relative to the top face of the top table between a position more or less flush with the top table and a position projecting beyond the top table.

The Examiner has taken the position that this feature is disclosed in *Johnston*. Specifically, the Examiner has taken the position that the anchors at points 94 and 95 shown in FIG. 6 are locking mechanisms according to Applicants' claim 64. It is respectfully submitted that the Examiner's position is unfounded.

The anchors at points 94 and 95 of the load support means of *Johnston* anchor the transmission chains 83 and 84 to the upper platform 76, and are not displaceable between a position more or less flush with the top table and a position projecting beyond the top table. See column 3, lines 58-68 of *Johnston*. These anchor points will merely remain flush with the top table according to the teachings of *Johnston*, and will not move to a position projecting above the top table. See FIG. 8 of *Johnston*, which clearly shows this anchor point 84 as being flush with the top table and not displaceable to a position projecting above the top table, as this anchor is bolted in at two places to the top table so that the anchor will not be able to rotate or slide to change its position.

With a load-supporting device according to Applicants' amended claim 64, storage aids to be transported by the load-supporting device can be secured to prevent them from falling off

of the telescopic table. A load support means according to *Johnston* will fail to achieve this benefit achieved by a load-supporting device-according to Applicants' amended claim 64.

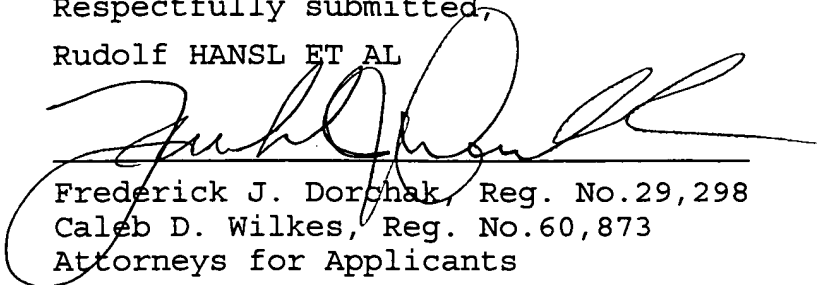
Accordingly, it is respectfully submitted that Applicants' amended claim 64, together with amended claims 65-70 which depend thereon, are patentable over *Johnston* for this additional reason.

In summary, claim 58 has been canceled, claims 42-57 and 59-70 have been amended, the specification has been amended, and an amended FIG. 2 has been submitted. In view of the foregoing, it is respectfully requested that the claims be allowed and that this application be passed to issue.

Applicants also submit herewith a Second Supplemental
Information Disclosure Statement.

Respectfully submitted,

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Enclosures:

Appendix with one (1) replacement sheet of drawings
Second Supplemental Information Disclosure Statement
Form PTO-1449 with one (1) document
Check in the amount of \$180.00

I hereby certify that this correspondence is being deposited
with the U.S. Postal Service as first class mail in an envelope
addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O.
Box 1450, Alexandria, VA 22313-1450, on June 16, 2010.



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APPENDIX